

REMARKS

Claims 2, 15, and 18 have been canceled. Claims 1, 12 through 14, 22, and 23 have been amended. Claims 1, 3 through 14, 16, 17, and 19 through 23 remain in the application. A marked up copy of the amended claims is attached hereto as Appendix A.

Claims 1 through 23 were rejected under 35 U.S.C. § 102(b) as being anticipated by Skelton (U.S. Patent No. 5,092,481) or Busch (U.S. Patent No. 5,570,807). Applicant respectfully traverses this rejection.

U.S. Patent No. 5,092,481 to Skelton discloses a method and apparatus for steadily holding a container. A loop 10 consists of a strap of flexible material such as polypropylene webbing having a swatch 20 of nylon based hook-type fasteners located on one side of the strap at one end thereof and a swatch 22 of nylon based loop fasteners located on the other side of the strap at the other end thereof. The loop 10 formed by forming the strap into a loop and then pressing swatches 20 and 22 together so that the hook fasteners engage the loop fasteners. FIGS. 8 and 9 illustrate a loop 50 or thumb engaging means 50 which is integral with a swing handle 52. FIG. 10 illustrates a rigid hook-shaped member 60 having an end 62 which is looped about the container's handle and thus is pivotally and slideably secured to the swing handle. The hook-shaped member 60 has a hook-shaped free end 64 for receiving a thumb of a person's hand. Skelton does not disclose a cylindrical sleeve and a retainer having a wall with a first end connected and fixed relative to the sleeve and a second end extending generally perpendicular to a longitudinal axis of the sleeve to overlap a circumferential portion of the sleeve in which the retainer is adapted to be attached to and detached from a handle of a paint container.

U.S. Patent No. 5,570,807 to Busch discloses an apparatus and method for holding a container in one hand. The apparatus includes a sleeve 5, a means 6 for detachably fastening

the apparatus to the container which is to be held, and a means 7 for connecting the fastening means 6 to the sleeve 5. The means 6 for detachably fastening the apparatus to the container is usually a spring clip. The clip preferably includes a curved hook 9. The hook 9 has a first end 9a which is fastened to the means 7 for connecting the fastening means 6 and a second end 9b which is adapted to fit around the rim or handle of the container. Busch does not disclose a cylindrical sleeve and a retainer having a wall with a first end connected and fixed relative to the sleeve and a second end extending generally perpendicular to a longitudinal axis of the sleeve to overlap a circumferential portion of the sleeve in which the retainer is adapted to be attached to and detached from a handle of a paint container.

In contradistinction, claim 1, as amended, clarifies the invention claimed as a holder for assisting in holding a paint container including a cylindrical sleeve adapted to receive a thumb of a hand and having a longitudinal axis. The holder also includes a retainer having a wall with a first end connected to the sleeve. The first end is fixed relative to the sleeve. The wall has a second end extending generally perpendicular to the longitudinal axis of the sleeve to overlap a circumferential portion of the sleeve. The retainer is adapted to be attached to and detached from a handle of a paint container, whereby the retainer is attached to the handle and the sleeve receives the thumb of the hand to allow a weight of the paint container to be transferred to a remainder of the hand supporting at a bottom of the paint container.

A rejection grounded on anticipation under 35 U.S.C. § 102 is proper only where the subject matter claimed is identically disclosed or described in a reference. In other words, anticipation requires the presence of a single prior art reference which discloses each and every element of the claimed invention arranged as in the claim. In re Arkley, 455 F.2d 586, 172 U.S.P.Q. 524 (C.C.P.A. 1972); Kalman v. Kimberly-Clark Corp., 713 F.2d 760, 218 U.S.P.Q.

781 (Fed. Cir. 1983); Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick Co., 730 F.2d 1452, 221 U.S.P.Q. 481 (Fed. Cir. 1984).

None of the references cited disclose or anticipate the claimed invention of claim

1. Specifically, Skelton '481 merely discloses a method and apparatus for steadily holding a container in which a loop consists of a strap of flexible material having a swatch of nylon based hook-type fasteners located on one side of the strap at one end thereof and a swatch of nylon based loop fasteners located on the other side of the strap at the other end thereof. Skelton '481 lacks a cylindrical sleeve and a retainer having a wall with a first end connected and fixed relative to the sleeve and a second end extending generally perpendicular to a longitudinal axis of the sleeve to overlap a circumferential portion of the sleeve in which the retainer is adapted to be attached to and detached from a handle of a paint container. In Skelton '481, there is no single embodiment that has a cylindrical sleeve and a retainer to overlap a circumferential portion of the sleeve in which the retainer is adapted to be attached to and detached from a handle of a paint container. Busch '807 merely discloses an apparatus and method for holding a container in one hand having a sleeve, a means for detachably fastening the apparatus to the container, and a means for connecting the fastening means to the sleeve. Busch '807 lacks a cylindrical sleeve and a retainer having a wall with a first end connected and fixed relative to the sleeve and a second end extending generally perpendicular to a longitudinal axis of the sleeve to overlap a circumferential portion of the sleeve in which the retainer is adapted to be attached to and detached from a handle of a paint container. In Busch '807, the means 6 for detachably fastening the apparatus to the container is a spring clip having a first end 9a which is fastened to the means 7 for connecting the fastening means 6 and a second end 9b which is adapted to fit around the rim or handle and not a first end connected and fixed relative to the sleeve and a second end extending generally perpendicular to a longitudinal axis of the sleeve to overlap a circumferential

portion of the sleeve. Each of the references fails to disclose the combination of a holder for assisting and holding a paint container including a cylindrical sleeve and a retainer having a wall with a first end connected and fixed relative to the sleeve and a second end extending generally perpendicular to a longitudinal axis of the sleeve to overlap a circumferential portion of the sleeve in which the retainer is adapted to be attached to and detached from a handle of a paint container as claimed by Applicant. Therefore, it is respectfully submitted that claims 1 and the claims dependent therefrom are allowable over the rejection under 35 U.S.C. § 102(b).

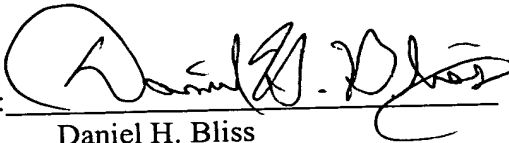
As to claim 14, claim 14, as amended, clarifies the invention claimed as a holder for assisting in holding a paint container including a cylindrical sleeve extending longitudinally to form a hollow interior with at least one open end adapted to receive a thumb of a hand. The sleeve is unitary circumferentially. The holder also includes a retainer extending from and being unitary and one-piece with the sleeve. The retainer is adapted to be attached to and detached from a handle of a paint container, whereby the retainer is attached to the handle and the sleeve receives the thumb of the hand to allow a weight of the paint container to be transferred to a remainder of the hand supporting a bottom of the paint container. Claim 20 has been amended similar to claim 14 and is directed to the feature of the sleeve and retainer being made as one-piece from a plastic material.

None of the references cited disclose or anticipate the claimed invention of claims 14 and 23. Specifically, Skelton '481 merely discloses a method and apparatus for steadily holding a container in which a loop consists of a strap of flexible material having a swatch of nylon based hook-type fasteners located on one side of the strap at one end thereof and a swatch of nylon based loop fasteners located on the other side of the strap at the other end thereof. Skelton '481 lacks a cylindrical sleeve being unitary circumferentially and a retainer extending from and being unitary and one-piece with the sleeve to be attached to and detached from a

handle of a paint container. In Skelton '481, there is no single embodiment that has a cylindrical sleeve being unitary circumferentially and a retainer extending from and being unitary and one-piece with the sleeve to be attached to and detached from a handle of a paint container. Busch '807 merely discloses an apparatus and method for holding a container in one hand having a sleeve, a means for detachably fastening the apparatus to the container, and a means for connecting the fastening means to the sleeve. Busch '807 lacks a cylindrical sleeve being unitary circumferentially and a retainer extending from and being unitary and one-piece with the sleeve to be attached to and detached from a handle of a paint container. In Busch '807, the sleeve 5, means 6 for detachably fastening the apparatus to the container, and the means 7 for connecting the fastening means to the sleeve are separate pieces and not a cylindrical sleeve being unitary circumferentially and a retainer extending from and being unitary and one-piece with the sleeve. Each of the references fails to disclose the combination of a holder for assisting and holding a paint container including a cylindrical sleeve being unitary circumferentially and a retainer extending from and being unitary and one-piece with the sleeve to be attached to and detached from a handle of a paint container as claimed by Applicant. Therefore, it is respectfully submitted that claims 14 and 23 and the claims dependent therefrom are allowable over the rejection under 35 U.S.C. § 102(b).

Based on the above, it is respectfully submitted that the claims are in a condition for allowance, which allowance is solicited.

Respectfully submitted,

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APPENDIX AVERSION OF THE CLAIMS WITH MARKINGS TO SHOW THE CHANGES

Please amend claims 1, 12 through 14, 22, and 23 as follows:

1. (AMENDED) A holder for assisting in holding a paint container, comprising:
a cylindrical sleeve adapted to receive a thumb of a hand and having a longitudinal axis; and
a retainer having a wall with a first end connected to said sleeve, said first end being fixed relative to said sleeve, said wall having a second end extending generally perpendicular to said longitudinal axis of said sleeve to overlap a circumferential portion of said sleeve, said retainer being adapted to [retain] be attached to and detached from a handle of a paint container [and] , whereby the retainer is attached to the handle and the sleeve receives the thumb of the hand to allow a weight of the paint container to be transferred to a remainder of the hand supporting at a bottom of the paint container.

12. (AMENDED) A holder as set forth in claim 1 wherein said [retainer has a] first end and [a] said second end [to] form a hollow interior therebetween.

13. (AMENDED) A holder as set forth in claim [11] 1 wherein [said first end is connected to said sleeve and] said second end is movable relative to said first end.

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14. (AMENDED) A holder for assisting in holding a paint container, comprising:

a cylindrical sleeve extending longitudinally to form a hollow interior with at least one open end adapted to receive a thumb of a hand, said sleeve being unitary circumferentially; and

a retainer [connected to] extending from and being unitary and one-piece with said sleeve, said retainer being [and] adapted to be attached to and detached from [retain] a handle of a paint container [and] , whereby the retainer is attached to the handle and the sleeve receives the thumb of the hand to allow a weight of the paint container to be transferred to a remainder of the hand supporting a bottom of the paint container.

22. (AMENDED) A holder as set forth in claim 21 wherein said first end [is connected to] extends from said sleeve and said second end is movable relative to said first end.

23. (AMENDED) A holder comprising:

a cylindrical sleeve [made of a flexible material] having a wall extending longitudinally to form a hollow interior with at least one open end adapted to receive a thumb of a hand; and

a retainer [made of a spring material connected to] extending from said wall of said sleeve [and] , said sleeve and retainer being made of a plastic material to form a monolithic structure that is unitary and one-piece, said retainer being adapted to [retain] be attached to and detached from a handle of a paint container [and] , whereby the retainer is attached to the handle and the sleeve receives the thumb of the hand to allow a weight of the paint container to be transferred to a remainder of the hand supporting a bottom of the paint container.